



General Assembly

January Session, 2009

**Committee Bill No. 6339**

LCO No. 4863

\*04863HB06339JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING THE FORFEITURE OF PROPERTY OBTAINED  
BY SECURITIES FRAUD.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) All property  
2 constituting, or derived from, the proceeds obtained, directly or  
3 indirectly, from a violation of section 36b-4 or 36b-5 of the general  
4 statutes shall be subject to forfeiture to the state pursuant to subsection  
5 (b) of this section.

6 (b) Not later than ninety days after the seizure of moneys or  
7 property subject to forfeiture pursuant to subsection (a) of this section,  
8 in connection with a lawful criminal arrest or a lawful search, the Chief  
9 State's Attorney or a deputy chief state's attorney, state's attorney or  
10 assistant or deputy assistant state's attorney may petition the court in  
11 the nature of a proceeding in rem to order forfeiture of said moneys or  
12 property. Such proceeding shall be deemed a civil suit in equity, in  
13 which the state shall have the burden of proving all material facts by  
14 clear and convincing evidence. The court shall identify the owner of  
15 said moneys or property and any other person as appears to have an  
16 interest therein, and order the state to give notice to such owner and

17 any interested person by certified or registered mail, and shall  
18 promptly, but not less than two weeks after notice, hold a hearing on  
19 the petition. No testimony offered or evidence produced by such  
20 owner or interested person at such hearing and no evidence  
21 discovered as a result of or otherwise derived from such testimony or  
22 evidence, may be used against such owner or interested person in any  
23 proceeding, except that no such owner or interested person shall be  
24 immune from prosecution for perjury or contempt committed while  
25 giving such testimony or producing such evidence. At such hearing  
26 the court shall hear evidence and make findings of fact and enter  
27 conclusions of law and shall issue a final order, from which the parties  
28 shall have such right of appeal as from a decree in equity.

29 (c) No property shall be forfeited under this section to the extent of  
30 the interest of an owner or lienholder by reason of any act or omission  
31 committed by another person if such owner or lienholder did not  
32 know and could not have reasonably known that such property was  
33 being used or was intended to be used in, or was derived from,  
34 criminal activity.

35 (d) Notwithstanding the provisions of subsection (a) of this section,  
36 no moneys or property used or intended to be used by the owner  
37 thereof to pay legitimate attorney's fees in connection with his defense  
38 in a criminal prosecution shall be subject to forfeiture under this  
39 section.

40 (e) Any property ordered forfeited pursuant to subsection (b) of this  
41 section shall be sold at public auction conducted by the Commissioner  
42 of Administrative Services or his designee.

43 (f) The proceeds from any sale of property under subsection (e) of  
44 this section and any moneys forfeited under this section shall be  
45 applied: (1) To payment of the balance due on any lien preserved by  
46 the court in the forfeiture proceedings; (2) to payment of any costs  
47 incurred for the storage, maintenance, security and forfeiture of such  
48 property; and (3) to payment of court costs. The balance, if any, shall

49 be deposited in the securities fraud restitution account established  
50 under subsection (g) of this section.

51 (g) There is established a securities fraud restitution account which  
52 shall be a separate, nonlapsing account within the General Fund. The  
53 account shall contain any moneys required by law to be deposited in  
54 the account. The funds in the account shall be expended by the  
55 Department of Banking to make restitution to persons who have been  
56 victims of a violation of section 36b-4 or 36b-5 of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	New section

***Statement of Purpose:***

To authorize the forfeiture of moneys and property obtained or derived from securities fraud violations and provide that such moneys and property be used to make restitution to the victims of such fraud.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: REP. DILLON, 92nd Dist.

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